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MC-MRD-P4

Art Unit: 3651 – Ex. Bidwell, James

Response to Office Action mailed September 14, 2006

REMARKS

Claims 14-26 are pending in this application. Applicant has amended independent claim 14 to include the elements recited in original dependent claims 15, 19 and 20. Applicant has canceled claims 15, 16, 19, 20, 23 and 24 without prejudice. Claims 17, 18 and 21 have been amended to specify further functions of the tube. Claims 22 and 26 have been amended to depend from independent claim 14. No new matter has been added.

Claims 15 and 24 were rejected on formal grounds, which are moot in view of the cancellation of these claims.

Claims 14-23, 25 and 26 were rejected under 35 U.S.C 102(b) as being anticipated by U.S. Patent No. 4,457,423 to Stoll, and claims 14-19, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,147,029 to Wadell. Applicant respectfully requests reconsideration of these rejections.

Independent claim 14 now recites the features of both a magnetic moving means and a sensor, which provides for monitoring and/or control of tablet flow. Thus, the apparatus provides for a gentle transfer of the carrier 4, in the embodiment for carrying tablets, between the respective stations, the sensors acting to monitor the exact position of the tablets in the tube.

Neither the Stoll patent nor the Wadell patent disclose these features. The Stoll patent discloses a pneumatic conveyor system which has superimposed on it a magnetic driver which shuttles to and from within the tube. Thus, the driver disclosed in the Stoll patent can act on any

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product, and can damage it, unlike in the present application where there is no driving means internally of the tube. Instead, the magnet is outside the tube.

The Wadell patent discloses an apparatus having internal partitioning elements, the movement of which acts on the product in the tube (10) to damage it, unlike in the apparatus recited in claim 14, as described above.

Therefore, independent claim 14 recites features that are not disclosed in either the Stoll or the Wadell patents, and is believed to be patentable over these references. Claims 17, 18, 21, 22, 25 and 26 depend from claim 14 and are similarly believed to be patentable over the cited references for at least the reasons set forth above.

Accordingly, Applicant believes that all claims pending in this application are allowable and request that this case be passed to issue. However, if any issue remains to be resolved, Applicant requests that the Examiner telephone the undersigned.

Applicant hereby requests a 2-month extension of time for which to file a response to the Office Action. Authorization is provided in the transmittal page submitted herewith to charge \$225 to Deposit Account No. 50-3195 to cover the fee required by 37 CFR 1.17(a)(2).

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The Commissioner is hereby authorized to charge payment of any other fee under 37 CFR 1.16 or 1.17 which may be required by this paper or credit any overpayment as same to Deposit Account No. 50-3195.

Dated: February 14, 2006

Respectfully submitted,

Customer No. 44702

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